

**BOARDS AND COMMISSIONS**  
**Board of Medical Imaging and Radiation Therapy**  
**(Amendment)**

**201 KAR 46:070. Violations and enforcement.**

RELATES TO: KRS 311B.100, 311B.120, 311B.150, 311B.160, 311B.170, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.120, 311B.180, 311B.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.120 and 311B.190 require the board to promulgate administrative regulations to establish appropriate fees and penalties for violations. KRS 311B.180 requires the board to assess penalties against an individual or licensee who performs diagnostic or therapeutic procedures without a valid license. This administrative regulation establishes uniform enforcement procedures regarding the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator and penalties for violation of licensure requirements.

**Section 1. Denial, Revocation, and Suspension of Licenses.**

(1) The board may deny, revoke, or suspend the license of a licensee in accordance with KRS 311B.160.

(2) A licensee shall comply with an order of the board.

(3) An order of the board in subsection (2) of this section shall include items such as discovery orders, requests for information, subpoenas, requests for attendance before the board, and responses to complaints.

**Section 2. Hearings.**

(1) The board shall notify the licensee in accordance with KRS 311B.170(1) and (2).

(2) A licensee to whom a notice or order is directed shall comply with KRS 311B.170(3) to avoid license revocation.

(3) The board shall issue the licensee a notice of proposed action in accordance with 201 KAR 46:090.

(4) A licensee may request a conference and appeal the board's action in accordance with KRS 311B.170(5) and 201 KAR 46:090.

**Section 3. Penalties.**

(1)(a) The board shall assess civil penalties in accordance with KRS 311B.180 and 311B.190 against an individual who performs diagnostic or therapeutic procedures without valid licensure.

(b) The board shall investigate an allegation that an individual performed a diagnostic or therapeutic procedure without valid licensure in accordance with 201 KAR 46:090.

(c) The board shall only assess a civil penalty after confirmation through one (1) of the means enumerated in KRS 311B.180~~[311B.180]~~(2).

(2) An individual who performs a diagnostic or therapeutic procedure without valid licensure shall be assessed a civil penalty of fifty (50) dollars per day that the procedure occurs.

(3) Civil penalties double the amount assessed against an individual shall be assessed against the employer of the individual without a valid license pursuant to KRS 311B.180.

(4) Any person or employer assessed a civil penalty may request a hearing as specified in 201 KAR 46:090, Section 6.

(5)(a) An individual who performs diagnostic or therapeutic procedures without valid licensure shall be subject to a civil penalty of no more than \$1,500.

(b) An employer of an individual without a valid license shall be subject to a civil penalty of no more than \$3,000.

(6) For each day an individual performs a diagnostic or therapeutic procedure without valid licensure if the range is:

(a) One (1) to five (5) days, the individual shall receive a five (5) day suspension;

(b) Six (6) to twenty-nine (29) days, the individual shall receive a suspension for each day a procedure is performed; and

(c) Thirty (30) days or more, the individual receives a forty-five (45) day suspension.

AMY ATKINS, Chair

APPROVED BY AGENCY: May 13, 2020

FILED WITH LRC: May 15, 2020 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on July 22, 2020 at 125 Holmes St, Suite 320, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on July 31, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Elizabeth Morgan, Executive Director, 125 Holmes St, Suite 320, Frankfort, Kentucky 40601, phone +1 (502) 782-5687, fax +1 (502) 782-6495, email [elizabeth.morgan@ky.gov](mailto:elizabeth.morgan@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes uniform enforcement procedures regarding the licensure of medical imaging and radiation therapy professionals and establishes penalties for violation of licensure requirements.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including, but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants, and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes uniform enforcement procedures regarding

the licensure of medical imaging and radiation therapy professionals and establishes penalties for violation of licensure requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation establishes uniform enforcement procedures regarding the licensure of medical imaging and radiation therapy professionals and establishes penalties for violation of licensure requirements.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment updates a statutory reference within the text that was errant in Section 3(c).

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to correct a typo in the text in Section 3(c).

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations to establish appropriate fees and penalties for violations as well as assess penalties against an individual or licensee who performs diagnostic or therapeutic procedures without a valid license.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will correct an error in the referenced statute in Section 3(c).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 licensees.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No action is required. The amendment merely corrects a typo in Section 3(c).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There will be no cost.

(c) As a result of compliance, what benefits will accrue to the entities: This amendment corrects a typo.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by licensees and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the amendment corrects a typo.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Imaging and Radiation Therapy will be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.010 to 311B.190

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? There is no cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no cost to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None